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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,784	09/22/2003	Frank Hirschmann	4452-566	3292

27799 7590 11/02/2004

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NEW YORK, NY 10176

EXAMINER

LORENCE, RICHARD M

ART UNIT	PAPER NUMBER
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3681

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/668,784

Applicant(s)

HIRSCHMANN ET AL.

Examiner

Richard M. Lorence

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-9 is/are rejected.
- 7) ☒ Claim(s) 5, 10 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is the first Office action on the merits of Application No. 10/668,784 filed on September 22, 2003. Claims 1-11 are currently pending.

#### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Claim Objections***

In line 7 of claim 1 "urge" should read - - urges - -. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The scope of claim 3 cannot be determined since it is unclear which of the preceding claims, 1 or 2, the claim should depend from.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Drexel et al. '302. Note the embodiment of Figures 5 and 7 including the housing 1, pressure plate 2, force exerting arrangement 8, and the wear take-up device including the wear take-up element 5, 11 and the manually operable adjusting element 19. The wear take-up device is arranged in the path of support between the pressure plate and the force exerting arrangement. The wear take-up element includes the circumferential toothed area 12. The adjusting element is rotatably supported on the pressure plate via the element 20 and includes a toothed area 21 which engages the teeth 12. Element 20 can be broadly interpreted as a "carrier bolt" as in claim 3. Also note the arresting device 22-24. The hexagonal formation for engagement by a tool on the adjusting element 19 is best seen in Figure 7.

Claims 1, 2, 4, 6, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Morse '427 which shows a clutch including the housing 5, pressure plate 40, force exerting arrangement 44, and the wear take-up device including the wear take-up element 48 and the manually operable adjusting element 52. The wear take-up element includes the circumferential toothed area 50. The adjusting element is rotatably

supported on the housing and includes a toothed area 51 which engages the teeth 50. Morse also shows the arresting device 55 and the square formation 54 for engagement by a tool.

***Allowable Subject Matter***

Claims 5, 10 and 11 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


***Prior Art Citation***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The examiner further cites Leighton '015, Flotow et al. '680 and Tarlton et al. '913 which show friction clutches with manually operable wear take-up devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard M. Lorence whose telephone number is (703) 308-3062. The examiner can normally be reached on Mondays through Fridays from 9:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (703) 308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Richard M. Lorence  
Primary Examiner  
Art Unit 3681

Lorence/rml